

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JAMES FORTUNE,

Plaintiff,

- against -

A&E TELEVISION NETWORKS, LLC.

Defendant.

Docket No. 1:17-cv-4713

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff James Fortune (“Fortune” or “Plaintiff”), by and through his undersigned counsel, as and for his Complaint against Defendant A&E Television Networks, LLC (“A&E” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of an iconic copyrighted photograph of English musician Jimmy Page, owned and registered by Fortune, a Virginia based music photojournalist. Accordingly, Fortune seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

## **PARTIES**

5. Fortune is a professional photojournalist in the business of sell his photographs having a usual place of business at 12420 North Oaks Drive, Ashland, Virginia, 23005.

6. Upon information and belief, A&E is a foreign limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business at 235 East 45<sup>th</sup> Street, New York, New York 10017. Upon information and belief, A&E is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, A&E has owned the Biograph Channel (the “TV Station”).

## **STATEMENT OF FACTS**

### **A. Background and Plaintiff’s Ownership of the Photograph**

7. Fortune photographed English musician Jimmy Page (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Fortune is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph is registered with the United States Copyright Office and was given registration number VAu 514-022.

### **B. Defendant’s Infringing Activities**

10. Upon information and belief, A&E ran a movie Led Zeppelin Dazed and Confused on their TV Station. The movie prominently featured the Photograph. A true and correct copy of the Photograph on the TV Station is attached hereto in Exhibit B.

11. A&E did not license the Photograph from Plaintiff for its TV Station, nor did A&E have Plaintiff’s permission or consent to publish the Photograph on its TV Station.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST A&E)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. A&E infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the TV Station. A&E is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by A&E have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

16. As a direct and proximate cause of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and defendant's profits pursuant to 17 U.S.C. § 504(b).

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to recover his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant A&E be adjudged to have infringed upon Plaintiff's copyright in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorney's fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
June 22, 2017

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz  
Richard P. Liebowitz  
11 Sunrise Plaza, Suite 305  
Valley Stream, New York 11580  
Telephone: (516) 233-1660  
RL@LiebowitzLawFirm.com

*Attorneys for Plaintiff James Fortune*